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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FCC 95 - 219

In the Matter of)
)
Treatment of Local Exchange Carrier)
Tariffs Implementing Statement of) CC Docket No. 92-101
Financial Accounting Standards,)
"Employers Accounting for)
Postretirement Benefits Other Than Pensions")

MEMORANDUM OPINION AND ORDER

Adopted: June 7, 1995; Released: July 3, 1995

By the Commission:

1. In December 1990, the Financial Accounting Standards Board (FASB) adopted SFAS-106, which changes the way businesses following Generally Accepted Accounting Principles (GAAP) must account for benefits other than pensions that are provided to retired employees, typically medical benefits. Regulated local exchange carriers (LECs) and AT&T historically accounted for these benefits on a "pay-as-you-go" basis, recognizing the amounts actually paid to retired employees each year. SFAS-106, however, requires accounting recognition of these benefits as they are earned by employees during their working years. Under SFAS-106, the new accounting was required for fiscal years beginning after December 15, 1992, and earlier implementation was encouraged. Furthermore, SFAS-106 requires companies not only to change to accrual accounting on a going-forward basis, but also to correct their accounting practices to recognize the future benefits already earned by existing retirees and employees. This correction amount is referred to as the transitional benefit obligation or TBO amount.

2. Since 1985, the Commission has implemented a policy of following GAAP, including new FASB standards, unless adoption of the principle or practice conflicts with the Commission's regulatory objectives. This policy is incorporated into Section 32.16 of the Commission's Uniform System of Accounts (USOA).¹ Pursuant to Section 32.16,

¹ See Section 61.32 of the Commission's rules, 47 C.F.R. § 32.16.

the Common Carrier Bureau issued an Order requiring all subject carriers to adopt SFAS-106, on or before January 1, 1993, for purposes of the USOA.²

3. In 1992, several LECs subject to price cap regulation filed tariff transmittals that sought permission to treat the accounting change for Other Postretirement Employment Benefits (OPEBs) as exogenous costs.³ The Bureau suspended these transmittals and set them for investigation.⁴ All price cap-regulated LECs were made subject to this investigation. On January 22, 1993, the Commission adopted an Order terminating the investigation and denying the LECs' requests for exogenous treatment of OPEBs.⁵ Bell Atlantic, US West and Pacific Bell were ordered to file tariff revisions removing the OPEB material.⁶

4. On July 12, 1994, the United States Court of Appeals for the District of Columbia Circuit reversed and remanded the Commission's *OPEB Order*.⁷ The court held that the Commission failed to adhere to its exogenous cost rule in evaluating the LECs' filings regarding their ongoing accrual of OPEB expenses.⁸ The court also found that, for the TBO amounts, the Commission did not provide an adequate basis for rejecting the economic studies submitted by the LECs to demonstrate that the TBO amounts were not reflected in the inflation adjustment ("gross national product productivity index" or GNP-

² Southwestern Bell Corporation, GTE Service Corporation, Notification of Intent To Adopt Statement of Financial Accounting Standards, No. 106, Employer's Accounting for Postretirement Benefits Other Than Pensions, Order, 6 FCC Rcd 7560 (Com. Car. Bur. 1991).

³ See Bell Atlantic Telephone Companies Tariff F.C.C. No. 1, Transmittal No. 497 (filed Feb. 28, 1992); US West Communications, Inc. Tariff F.C.C. Nos 1 and 4, Transmittal No. 246 (filed Apr. 3, 1992); and Pacific Bell Tariff F.C.C. No. 128, Transmittal No. 1579 (filed Apr. 16, 1992). Exogenous costs are those costs triggered by administrative, legislative or judicial action that is beyond the control of the carrier and not otherwise included in the price cap formula, such as through the inflation adjustment.

⁴ Treatment of Local Exchange Carrier Tariffs Implementing Statement of Financial Accounting Standards, "Employers Accounting for Postretirement Benefits Other Than Pensions," CC Docket No. 92-101, Order of Investigation and Suspension, 7 FCC Rcd 2724 (Com. Car. Bur. 1992).

⁵ Treatment of Local Exchange Carrier Tariffs Implementing Statement of Financial Accounting Standards, "Employers Accounting for Postretirement Benefits Other Than Pensions," Memorandum Opinion and Order, CC Docket No. 92-101, 8 FCC Rcd 1024, 1037 (1993)(*OPEB Order*).

⁶ *Id.*

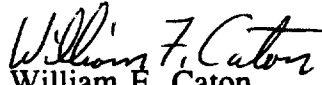
⁷ *Southwestern Bell Telephone Company v. FCC*, 28 F.3d 165 (D.C. Cir. 1994).

⁸ *Id.* at 169-70.

PI) that price cap LECs annually applied to their price cap indices.⁹ Finally, the court rejected the other double counting theories on which the Commission relied to deny the LECs' request for exogenous treatment of OPEB costs because they were not supported by the current rules.¹⁰

5. The tariffs that were the subject of the Commission's *OPEB Order* in CC Docket No. 92-101 have been withdrawn by the carriers. Therefore, no tariffs are pending in the remanded docket. Tariffs filed by the LECs after the Commission released its *OPEB Order* are the subjects of other pending investigations and will be addressed fully in those investigations.¹¹ Accordingly, we vacate the Commission's *OPEB Order* and terminate the captioned proceeding.

FEDERAL COMMUNICATIONS COMMISSION


William F. Caton
Acting Secretary

⁹ *Id.* at 171-72.

¹⁰ *Id.* at 172-73. The Commission had concluded that granting exogenous treatment to OPEB costs would permit the LECs to recover those costs twice because the costs were already reflected in the cost-of-service rates that formed the basis for initial price cap rates, or were factored into the computation of the LECs' rate of return or had been taken into account in setting the productivity factor.

¹¹ See 1993 Annual Access Tariff Filings, CC Docket No. 93-193, National Exchange Carrier Association, Transmittal No. 556, Universal Service Fund and Lifeline Assistance Rates, CC Docket No. 93-123, GSF Order Compliance Filings, Bell Operating Companies Tariffs for the 800 Service Management System and 800 Data Base Access Tariffs, CC Docket No. 93-129, Memorandum Opinion and Order Suspending Rates and Designating Issues for Investigation, 8 FCC Rcd 4960 (Com. Car. Bur. 1993); Bell Atlantic Telephone Companies Tariff F.C.C. No. 1, Transmittal No. 690, NYNEX Telephone Companies Tariff F.C.C. No. 1, Transmittal No. 328, Pacific Bell Tariff F.C.C. No. 128, Transmittal No. 1738, US West Communications, Transmittal No. 550, CC Docket No. 94-157, Memorandum Opinion and Order, DA 94-1613, (Com. Car. Bur., released Dec. 29, 1994).